

Executive Summary – Enforcement Matter – Case No. 44232
City of Whitney
RN101919421
Docket No. 2012-1084-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Polk Street Plant, located approximately one mile west of the intersection of Farm-to-Market Road 1244 and Farm-to-Market Road 933, Hill County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 21, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,820

Amount Deferred for Expedited Settlement: \$1,564

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,256

Name of SEP: Household Hazardous Waste Collection

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44232
City of Whitney
RN101919421
Docket No. 2012-1084-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 24, 2012
Date(s) of NOE(s): May 10, 2012

Violation Information

Failed to comply with permitted effluent limitations and monitoring requirements for total suspended solids, flow, and pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011408002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0011408002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2611; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

Executive Summary – Enforcement Matter – Case No. 44232
City of Whitney
RN101919421
Docket No. 2012-1084-MWD-E

TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175,
(512) 239-2223

Respondent: The Honorable Kristen Miller, Mayor, City of Whitney, P.O. Box 2050,
Whitney, Texas 76692

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1084-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Whitney
Penalty Amount:	Six Thousand Two Hundred Fifty-Six Dollars (\$6,256)
SEP Offset Amount:	Six Thousand Two Hundred Fifty-Six Dollars (\$6,256)
Type of SEP:	Custom
Project Name:	<i>Household Hazardous Waste Collection</i>
Location of SEP:	Hill County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day household hazardous waste collection event at no cost for city residents. The event will provide residents an opportunity to dispose of household hazardous waste items not normally accepted by traditional trash services and will include electronics, antifreeze, used tires, used oil, paint, and appliances without Freon (the "Project"). Respondent shall contract with Allied Waste Services (Permit No. 86925), located at 2559 FM 66, Itasca, Hill County, Texas, for disposal and recycling.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

1. occurs on a weekend during daylight hours
2. offers to the public a convenient drop-off location
3. uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

The Project will provide a means of properly disposing of household hazardous waste which might otherwise be disposed of in storm drains, the sewerage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Total
Flat fee for antifreeze disposal	1	\$270.00	\$270.00
Roll-off bins	3	\$75.00	\$225.00
Liner for paint container	1	\$50.00	\$50.00
Hauling fee for containers	3	\$326.67	\$980.00
Disposal fee for all collected HHW items	1	\$3,900.00	\$3,900.00
Disposal fee for electronics	1	\$1,601.00	\$1,601.00
Backhoe	1	\$200.00	\$200.00
Total			\$7,226.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall

submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-May-2012	Screening	24-May-2012	EPA Due	
	PCW	25-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Whitney		
Reg. Ent. Ref. No.	RN101919421		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44232	No. of Violations	1
Docket No.	2012-1084-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burkland
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **187.0%** Enhancement **Subtotals 2, 3, & 7** \$1,870

Notes Enhancement for 31 months of self-reported effluent violations, two NOV's with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$0
Approx. Cost of Compliance \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,820

OTHER FACTORS AS JUSTICE MAY REQUIRE **-1.7%** **Adjustment** -\$50

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended reductions so that the monthly self-reported violations do not overly impact the penalty.

Final Penalty Amount \$2,820

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,820

DEFERRAL **20.0%** Reduction **Adjustment** -\$564

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,256

Screening Date 24-May-2012

Docket No. 2012-1084-MWD-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 44232

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919421

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	33	165%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 187%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 31 months of self-reported effluent violations, two NOVs with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 187%

Screening Date 24-May-2012

Docket No. 2012-1084-MWD-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 44232

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919421

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. WQ0011408002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations and monitoring requirements, as documented in a record review conducted on April 24, 2012, and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Total Suspended Solids were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of contaminants which do not exceed levels protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the months of April 2011 and May 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,820

This violation Final Assessed Penalty (adjusted for limits) \$2,820

Economic Benefit Worksheet

Respondent City of Whitney
Case ID No. 44232
Reg. Ent. Reference No. RN101919421
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed Costs are assessed in the accompanying Penalty Calculation Worksheet.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	21-May-2012	Screening	24-May-2012	EPA Due	
	PCW	25-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Whitney
Reg. Ent. Ref. No.	RN101919421
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44232	No. of Violations	1
Docket No.	2012-1084-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burkland
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **100.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,500**

Notes: Enhancement for 31 months of self-reported effluent violations, two NOV's with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$1,233
Approx. Cost of Compliance: \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$5,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,000**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,000**

Screening Date 24-May-2012

Docket No. 2012-1084-MWD-E

PCW

Respondent City of Whitney

Policy Revision 3 (September 2011)

Case ID No. 44232

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101919421

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	33	165%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 187%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 31 months of self-reported effluent violations, two NOVs with same/similar violations, one NOV with dissimilar violations, and one agreed order containing denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 187%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 24-May-2012

Docket No. 2012-1084-MWD-E

PCW

Respondent City of Whitney

Policy Revision 3 (September 2011)

Case ID No. 44232

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101919421

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. WQ0011408002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description

Failed to comply with permitted effluent limitations and monitoring requirements, as documented in a record review conducted on April 24, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Total Suspended Solids, pH, and flow parameters were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of contaminants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

123 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended for the quarters containing the months of October 2011 through January 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,233

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent City of Whitney
Case ID No. 44232
Reg. Ent. Reference No. RN101919421
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	30-Apr-2011	1-Feb-2013	1.76	\$59	\$1,174	\$1,233
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility. Date required is the initial date of non-compliance. Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,233

City of Whitney
Docket No. 2012-1084-MWD-E
TPDES Permit No. WQ0011408002

Effluent Parameter Violation Table

	TSS	TSS	pH	Flow
	Daily Avg. Conc. Limit (April-October) = 20 mg/L (November-March) = 30 mg/L	Daily Avg. Load. Limit = 100 lbs/day	Daily Minimum Limit = 6.0 (su)	Daily Avg. Flow Limit = 0.040 MGD
Month/Year				
April/2011	32	c	c	c
May/2011	27.5	c	c	c
October/2011	26	c	c	c
November/2011	44.5	c	5.0	c
December/2011	52.8	125.5	c	c
January/2012	58	281.01	c	0.474

c = compliant

su = standard units

TSS = Total Suspended Solids

Conc. = Concentration

Avg. = Average

mg/L = milligrams per liter

lbs/day = pounds per day

Load. = Loading

MGD = million gallons per
day

Compliance History Report

Customer/Respondent/Owner-Operator: CN601048119 City of Whitney Classification: AVERAGE Rating: 2.93

Regulated Entity: RN101919421 POLK STREET PLANT Classification: AVERAGE Site Rating: 2.77

ID Number(s): WASTEWATER PERMIT WQ0011408002
WASTEWATER EPA ID TX0106551
WASTEWATER LICENSING LICENSE WQ0011408002

Location: Approximately 1 mile west of the intersection of Farm-to-Market Road 1244 and Farm-to-Market Road 933 in Hill County, Texas.

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 17, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 17, 2007 to May 17, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Remington Burklund Phone: 239 - 2611

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 10/04/2007 ADMINORDER 2007-0198-MWD-E
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Effluent Limits PERMIT
- Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A

- 1 05/11/2012 (1005091)
- 2 01/25/2012 (1005091)
- 3 07/13/2007 (560036)

4	06/21/2007	(587994)
5	07/17/2007	(605290)
6	09/17/2007	(605291)
7	02/29/2008	(618642)
8	10/23/2007	(629009)
9	10/22/2007	(629010)
10	11/26/2007	(629011)
11	12/11/2007	(629012)
12	02/22/2008	(676586)
13	01/10/2008	(676587)
14	03/26/2008	(695110)
15	04/17/2008	(695111)
16	05/27/2008	(695112)
17	06/24/2008	(716595)
18	07/10/2008	(716596)
19	09/19/2008	(716597)
20	04/09/2009	(727057)
21	09/30/2008	(732059)
22	10/21/2008	(732060)
23	12/03/2008	(732061)
24	12/16/2008	(732062)
25	02/12/2009	(755426)
26	01/20/2009	(755427)
27	09/14/2009	(764064)
28	03/11/2009	(772492)
29	04/16/2009	(772493)
30	05/20/2009	(772494)
31	02/11/2010	(817531)
32	01/15/2010	(817532)
33	03/30/2010	(835384)
34	05/04/2010	(835385)

35	05/10/2010	(835386)
36	07/06/2010	(847648)
37	06/30/2010	(862055)
38	08/10/2010	(868637)
39	11/15/2010	(870648)
40	09/10/2010	(875524)
41	10/13/2010	(883067)
42	11/04/2010	(889484)
43	01/05/2011	(903738)
44	01/07/2011	(903739)
45	04/22/2011	(907611)
46	02/28/2011	(910635)
47	03/11/2011	(917898)
48	04/18/2011	(929664)
49	06/11/2009	(929665)
50	07/09/2009	(929666)
51	07/29/2009	(929667)
52	08/13/2009	(929668)
53	10/14/2009	(929669)
54	11/18/2009	(929670)
55	12/11/2009	(929671)
56	05/27/2011	(939594)
57	06/10/2011	(947003)
58	09/09/2011	(950742)
59	07/12/2011	(954269)
60	09/02/2011	(966942)
61	09/15/2011	(966943)
62	10/26/2011	(972911)
63	11/15/2011	(979047)
64	01/04/2012	(992236)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/31/2007	(587994)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	06/30/2007	(605290)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	07/12/2007	(560036)	CN601048119
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) M&RR; No. 7(c), Pg. 6 PERMIT		
Description:	Failure to report to the Waco Regional Office in writing all effluent violations that deviate from the permitted effluent limitations by more than 40% within 5 working days.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)		
Description:	Failure by the permittee to conduct the required annual testing of the backflow prevention device.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)		
Description:	Failure by the permittee to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.		

Date:	08/31/2007	(605291)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	10/31/2007	(629011)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	11/30/2007	(629012)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	12/31/2007	(676587)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	01/31/2008	(676586)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	02/29/2008	(695110)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	03/31/2008	(695111)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	04/30/2008	(695112)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	05/31/2008	(716595)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	09/01/2008	(732059)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	09/30/2008	(732060)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	11/30/2008	(732062)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	01/31/2009	(755426)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	02/28/2009	(772492)	CN601048119
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 03/31/2009 (772493) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/09/2009 (727057) CN601048119
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit Conditions, No. 2g Pg. 7 PERMIT
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements No. 1, Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11
Monitor/Report Requirements No. 2, Pg. 5 PERMIT
Description: Failure by the permittee to comply with procedures specified in Texas Administrative Code 319.11.

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limit Requirements, No. 1 Pg. 2 PERMIT
Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(e)(5)
Operational Requirements, No. 1 Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 04/30/2009 (772494) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 (929665) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2009 (929666) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2009 (929669) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 (929670) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2009 (929671) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (835384) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (847648) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/25/2011 (907611) CN601048119
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions, Pg. 7, No. 2(g) PERMIT
Description: Failure by the permittee to prevent an unauthorized discharge.

Date: 04/30/2011 (939594) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2011 (947003) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2011 (979047) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2011 (992236) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2011 (1005091) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2012 (999546) CN601048119
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WHITNEY
RN101919421

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER
DOCKET NO. 2012-1084-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Whitney ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately one mile west of the intersection of Farm-to-Market Road 1244 and Farm-to-Market Road 933 in Hill County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 15, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Eight Hundred Twenty Dollars (\$7,820) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Sixty-Four Dollars (\$1,564) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand Two Hundred Fifty-Six Dollars (\$6,256) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations and monitoring requirements, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011408002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on April 24, 2012, and shown in the violation table below:

Effluent Parameter Violation Table				
	TSS	TSS	pH	Flow
Month/Year	Daily Avg. Conc. Limit (April-October) = 20 mg/L (November-March) = 30 mg/L	Daily Avg. Load Limit = 100 lbs/day	Daily Minimum Limit = 6.0 (su)	Daily Avg. Flow Limit = 0.040 MGD
April/2011	32	c	c	c
May/2011	27.5	c	c	c
October/2011	26	c	c	c
November/2011	44.5	c	5.0	c
December/2011	52.8	125.5	c	c
January/2012	58	281.01	c	0.474

c = compliant
su = standard units
TSS = Total Suspended Solids
Conc. = Concentration
Avg. = Average

mg/L = milligrams per liter
lbs/day = pounds per day
Load. = Loading
MGD = million gallons per
day

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Whitney, Docket No. 2012-1084-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Two Hundred Fifty-Six Dollars (\$6,256) of the assessed administrative penalty shall be offset with the condition that Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0011408002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam J. J. J.

2/18/13

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Kristen Miller

Signature

Date

11-6-12

Kristen Miller

Name (Printed or typed)
Authorized Representative of
City of Whitney

Title

Mayor

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2012-1084-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Whitney
Penalty Amount:	Six Thousand Two Hundred Fifty-Six Dollars (\$6,256)
SEP Offset Amount:	Six Thousand Two Hundred Fifty-Six Dollars (\$6,256)
Type of SEP:	Custom
Project Name:	<i>Household Hazardous Waste Collection</i>
Location of SEP:	Hill County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day household hazardous waste collection event at no cost for city residents. The event will provide residents an opportunity to dispose of household hazardous waste items not normally accepted by traditional trash services and will include electronics, antifreeze, used tires, used oil, paint, and appliances without Freon (the "Project"). Respondent shall contract with Allied Waste Services (Permit No. 86925), located at 2559 FM 66, Itasca, Hill County, Texas, for disposal and recycling.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

1. occurs on a weekend during daylight hours
2. offers to the public a convenient drop-off location
3. uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

The Project will provide a means of properly disposing of household hazardous waste which might otherwise be disposed of in storm drains, the sewerage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Total
Flat fee for antifreeze disposal	1	\$270.00	\$270.00
Roll-off bins	3	\$75.00	\$225.00
Liner for paint container	1	\$50.00	\$50.00
Hauling fee for containers	3	\$326.67	\$980.00
Disposal fee for all collected HHW items	1	\$3,900.00	\$3,900.00
Disposal fee for electronics	1	\$1,601.00	\$1,601.00
Backhoe	1	\$200.00	\$200.00
Total			\$7,226.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall

City of Whitney
Attachment A

submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.